

**FILED**  
**JANUARY 25, 2008**  
 MICHAEL W. DOBBINS  
 CLERK, U.S. DISTRICT COURT

**UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF ILLINOIS  
 EASTERN DIVISION**

STEPHEN SMIT,	)	Case No.
	)	
Plaintiff,	)	Judge
	)	
v.	)	Magistrate Judge
	)	
OFFICER KEELER #183, individually,	)	Jury Demand
	)	
Defendant.	)	

**08 C 558**

**JUDGE KOCORAS  
 MAGISTRATE JUDGE BROWN**

**COMPLAINT**

NOW COMES the Plaintiff, STEPHEN SMIT, by and through his attorneys, GREGORY E. KULIS AND ASSOCIATES, and complaining against the Defendant, Officer Keeler #183, individually, as follows.

**COUNT I-FALSE ARREST**

1) This action is brought pursuant to the Laws of the United States Constitution, specifically, 42 U.S.C. §1983 and §1988, and the laws of the State of Illinois, to redress deprivations of the Civil Rights of the Plaintiff and accomplished by acts and/or omissions of the Defendant committed under color of law.

2) Jurisdiction is based on Title 28 U.S.C. §1343 and §1331.

3) The Plaintiff, STEPHEN SMIT, at all relevant times was a United States citizen and permanent resident of the State of Illinois.

4) The Defendant, Officer Keeler #183, was at all relevant times a duly appointed police officer of the Chicago Heights Police Department and at all relevant times was acting within his scope of employment and under color of law.

5) On or about January 16, 2007, the Plaintiff was driving his car in Chicago Heights with his girlfriend when he was stopped by Defendant P.O. Keeler #183 in the vicinity of Chicago Road and the Rt. 1 cut off.

6) The Plaintiff was not committing a crime or breaking any laws.

- 7) The Defendant had previously dated the Plaintiff's girlfriend.
- 8) The Defendant warned the Plaintiff that if he saw him in Chicago Heights he would arrest him.
- 9) The Defendant arrested the Plaintiff on January 16, 2007 and charged him with driving under the influence, improper lane usage and resisting arrest.
- 10) The Plaintiff did not commit any crime or break any laws.
- 11) The Defendant did not have probable cause to stop and search the Plaintiff.
- 12) The Defendant did not have probable cause to arrest the Plaintiff.
- 13) The Defendant did not have probable cause to charge the Plaintiff.
- 14) Said actions of Defendant OFFICER KEELER #183, was intentional, willful, and wanton.
- 15) Said actions of the Defendant OFFICER KEELER #183, violated the Plaintiff's Fourth Amendment Rights and were in violation of said rights protected by 42 U.S.C. §1983.
- 16) As a direct and proximate consequence of said conduct of Defendant, OFFICER KEELER #183, the Plaintiff, STEPHEN SMIT, suffered violations of his constitutional rights, monetary expense, monetary loss, fear, emotional distress, pain and suffering.

WHEREFORE, the Plaintiff, STEPHEN SMIT, prays for judgment against the Defendant, OFFICER KEELER #183, jointly and severally, in an amount in excess of TWENTY FIVE THOUSAND AND 00/100 (\$25,000.00) DOLLARS compensatory damages and TEN THOUSAND AND 00/100 (\$10,000.00) DOLLARS punitive damages, plus attorney's fees and costs.

#### **COUNT II- EXCESSIVE FORCE**

1-10)The Plaintiff hereby realleges and incorporates his allegations of paragraphs 1-10 as his respective allegations of paragraphs 1-10 of Count II as though fully set forth herein.

- 11) While placing the Plaintiff under arrest the Defendant pepper sprayed the Plaintiff.

- 12) Said use of force was excessive and unreasonable.
- 13) As a result of the force used by the Defendant, the Plaintiff STEPHEN SMIT was injured.
- 14) Said actions of Defendant Officer Keeler #183 were intentional, willful and wanton.
- 15) Said actions of the Defendant, OFFICER KEELER #183, violated the Plaintiff's Fourth Amendment Rights and were in violation of said rights protected by 42 U.S.C. §1983.
- 16) As a direct and proximate consequence of said conduct of Defendant OFFICER KEELER #183, the Plaintiff, STEPHEN SMIT, suffered violations of his constitutional rights, monetary expense, monetary loss, fear, emotional distress, pain and suffering.

WHEREFORE, the Plaintiff, STEPHEN SMIT, prays for judgment against the Defendant, OFFICER KEELER #183, jointly and severally, in an amount in excess of TWENTY FIVE THOUSAND AND 00/100 (\$25,000.00) DOLLARS compensatory damages and TEN THOUSAND AND 00/100 (\$10,000.00) DOLLARS punitive damages, plus attorney's fees and costs.

#### **MALICIOUS PROSECUTION**

1-11) The Plaintiff hereby alleges and incorporates his allegations to paragraphs 3-13 of Count II as his respective allegations of paragraphs 1-11 of Count III as though fully set forth herein.

- 12) The Defendant proceeded with the criminal charges against the Plaintiff knowing they were false.
- 13) The actions of the Defendant were intentional, willful, wanton and with malice.
- 14) The charges were resolved in favor of the Plaintiff.
- 15) As a result of the actions of the Defendant the Plaintiff suffered monetary loss and expenses, pain, suffering, fear and anxiety.

WHEREFORE, the Plaintiff, STEPHEN SMIT, prays for judgment against the

Defendant, OFFICER KEELER #183, jointly and severally, in an amount in excess of TWENTY FIVE THOUSAND AND 00/100 (\$25,000.00) DOLLARS compensatory damages and TEN THOUSAND AND 00/100 (\$10,000.00) DOLLARS punitive damages, plus attorney's fees and costs.

**JURY DEMAND**

The Plaintiff, STEPHEN SMIT, requests a trial by jury.

Respectfully submitted,

/s/ Gregory E. Kulis

GREGORY E. KULIS AND ASSOCIATES

GREGORY E. KULIS AND ASSOCIATES  
30 North LaSalle Street, Suite 2140  
Chicago, Illinois 60602  
(312) 580-1830